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Strengthening Taxpayer Rights at the BOE

By Michelle Steel, California State Board of Equalization Member and former small business owner

Each month, Board of Equalization members meet to hear tax appeals relating to nearly every facet of California's complicated tax code. Sometimes the outcome of those appeals is so outrageous that it calls for legislative action.

In 2009, a taxpayer who had a good payment history came before the board because he had recently failed to remit his sales taxes on time. It turns out that the taxpayer's bookkeeper had been embezzling the funds marked for tax payment.

When the taxpayer came before the board, he wasn't looking for a way out of paying the taxes, he was merely seeking relief from over \$15,000 in interest that had accumulated because of the bookkeeper's crimes.

All five board members expressed their sympathy with the taxpayer, but we simply did not have the authority to do anything about it. Under current law, the BOE can relieve late payment penalties, but we cannot relieve interest except in the case of a disaster, or when a late payment was caused by the error or delay of a BOE employee.

Senate Bill 1420 (Correa) will correct this legal failure by allowing board members to use their discretion to relieve all or part of the interest imposed on a late payment in the rare cases that a taxpayer is the victim of a crime or another extraordinary circumstance – such as the death of an immediate family member.

The proposal is narrowly focused, and applies only when certain conditions are met. First, the taxpayer must be relieved of all applicable penalties. Next, the tax liability has to be paid. Last, the taxpayer has to request an oral hearing before the members of the board. Once before the board, the five members will have an opportunity to review evidence, and the limited flexibility needed to make a fair decision.

This proposal won't fix California's projected \$10 billion deficit. It won't lower our state's punitive tax rates, reform unfunded entitlements, or cut spending to bring it in line with

revenue. But it will allow a small amount of liberty for elected officials to serve their constituents better.

Even so, this proposal has been through the legislative paper-shredder twice before. I first sponsored it in 2010, and again in 2011 with the unanimous support of my colleagues on the BOE. This year, my colleagues agreed to sponsor it once again.

SB 1420 will be heard in the Senate Committee on Governance and Finance on Wednesday. I urge lawmakers to take this opportunity to strengthen taxpayer rights.

California's taxpayers are forced to jump over so many hurdles while running a business in this state that they deserve an honorary Olympic medal. They also deserve basic fairness when they accidentally miss a hurdle or when they are thrown into one by circumstances out of their control. All we ask for is the limited flexibility to provide it.